

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
Plaintiff,
V.
WANDA VAZQUEZ GARCED.

CRIMINAL NO. 22-cr-0342-01 (RAM)

RESPONSE TO ORDER TO SHOW CAUSE

TO THE HONORABLE COURT:

COMES NOW defendant WANDA VAZQUEZ GARCED, by and through her attorneys, and most respectfully STATES, ALLEGES and PRAYS:

The Court granted Governor Vazquez Garced until today to Show Cause as to why the Protective Order entered at D. 27 should remain in effect or notify any modifications. (D. 68)

For the reasons set forth below, Governor Vazquez Garced respectfully submits that the Protective Order should be modified solely to exclude her from the list of individuals covered by the Order.

The Protective Order restricts the parties enumerated therein from divulging “any information other than that entered without restrictions on the docket or disclosed in open court, related to the facts of the captioned case...” (D. 27, p.1-2.)

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Governor Vazquez Garced respectfully requests that, for the reasons set forth below and in co-defendant Mark Rossini's *Response* (D. 62), the Order be rescinded as it applies to her.

Publicity in this case is enormous and lopsided. Today has been a classic example of the media frenzy against Vazquez Garced. Every media outlet reported extensively on the Joint Status Report (D. 83) filed yesterday. Media outlets have taken the contents of the Report out of context and have gone as far as reporting that the Government "has 24 recordings in its case against former governor Wanda Vazquez." See: Eric de León, El Vocero, September 7, 2022 at 4:24p.m., https://www.elvocero.com/ley-y-orden/federal/la-fiscal-a-federal-tiene-24-grabaciones-en-el-caso-contra-la-exgobernadora-wanda-v/article_bed8f426-2eb7-11ed-8582-e35fbc6a754f.html.¹

A picture of the governor always appears just below the headlines. A commonsense interpretation of this headline leads the uniformed reader to believe that the Governor was present in all, or some, of the 24 recordings and must be guilty as charged.

¹ See also; Metro Puerto Rico, "[*l*]a fiscalía federal tiene gran cantidad de pruebas en el caso," Metro Puerto Rico, September 7, 2022 at 9:51 a.m.; <https://www.metro.pr/noticias/2022/09/07/federales-tienen-24-grabaciones-de-la-investigacion-en-el-caso-de-wanda-vazquez/>; Alex Figueroa Cancel, "FBI tiene 24 grabaciones relacionadas a la investigación del caso contra Wanda Vázquez" & "la fiscalía aludió a la existencia de otras personas 'paralelas' y a información clasificada," El Nuevo Día, September 7, 2022 at 8:16 a.m.

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More troubling is an article published by Noticel stating that the government's case against Governor Vazquez Garced includes 24 recordings and information that has been classified for reasons of national security. See: Oscar J. Serrano, "*[c]aso Wanda Vazquez abarca 24 grabaciones e información clasificada por seguridad nacional*," Noticel, September 7, 2022 at 11:57 a.m.

As it stands, the Protective Order prevents the Governor from defending herself against such incorrect and misleading headlines. For example, if the Protective Order is lifted as requested, she could address whether or not she is in any of those recordings and level the playing field in the jury pool. She could also comment on the absurd news reporting that she has in any way endangered national security.

The Protective Order does not protect Vazquez Garced's Sixth Amendment rights as the Court intended. It invertedly serves as a sword and shield for the government. The implicit bias in media coverage in favor of the government, in conjunction with a blanket gag order prohibiting Vazquez Garced from responding, constitutes a prior restraint on her First Amendment rights and jeopardizes her Sixth Amendment right to an impartial jury. *See: United States v. Ford*, 830 F.2d 596 (6th Cir. 1987) (The Sixth Circuit struck down a gag order that prohibited the defendant himself, as well as counsel, from making any public statements whatsoever about the case, beyond a bare assertion of innocence. In so ruling, the Court indicated that only a showing of a "clear and present danger" would warrant such a broad prohibition against a defendant discussing the charges against her.) ("To the extent

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that publicity is a disadvantage for the government, the government must tolerate it. The government is our servant, not our master.”) *Id.* at 600.

As a final matter, we wish to address the Court’s comments regarding defense counsels’ appearances in media outlets “[m]onths before the indictment was issued.” D. 19 at p. 2. Defense counsels’ appearances were the result of extensive leaks and media coverage of an investigation against the Governor and reports that her cellphone was seized by the FBI.² Governor Vazquez Garced further seeks leave from the Court to supplement this explanation with a more exhaustive narrative of events that led to defense counsels’ appearances in media outlets prior to the indictment.

WHEREFORE, we respectfully pray from this Honorable Court to GRANT this Response and (1) MODIFY its Protective Order to eliminate Governor Vazquez Garced from the list of covered individuals, (2) allow ten (10) days to supplement the instant motion with a more detailed narrative of events that led defense counsels’ to appear in media outlets prior

² See, e.g., El Nuevo Día, “Tras reportarse que el FBI incautó su celular, Wanda Vazquez dice que está abierta a colaborar con cualquier investigación, <https://www.elnuevodia.com/noticias/gobierno/notas/tras-reportarse-que-el-fbi-incauto-su-celular-wanda-vazquez-dice-que-esta-abierta-a-colaborar-con-cualquier-investigacion/>”, El Nuevo Día, February 15, 2022, 7:55 p.m.; Jagual Medina, “Federales incautan celular de exgobernadora Wanda Vázquez, Jayfonseca.com, <https://jayfonseca.com/federales-incautan-celular-de-exgobernadora-wanda-vazquez/>, February 15, 2022.

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to the filing of the indictment and (3) in future filings where the contents of discovery is discussed, direct the parties to initially file them with restrictions, subject to the Court's review.

I HEREBY CERTIFY that, on this same date, the undersigned attorney filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel for all parties in this action.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, September 7, 2022.

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